

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Telecommunications Relay Services)	CC Docket No. 98-67
and Speech-to-Speech Services for)	
Individuals with Hearing and Speech)	
Disabilities)	

COMMENTS OF MCI, INC.

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May 13, 2005

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Pursuant to Section 1.415 of the Rules of the Federal Communications Commission, MCI respectfully submits these Comments in response to the *Public Notice* released April 28, 2005 in the above-captioned matter.¹

I. SUMMARY AND INTRODUCTION

In the *Public Notice*, the Federal Communications Commission (“FCC” or “Commission”) seeks comment on the *Interstate Telecommunications Relay Services Fund Payment Formula and Fund Size Estimate* submitted by the National Exchange Carrier Association (“NECA”) on April 25, 2005.² The Commission also seeks further comment on an issue raised in the *Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking* (“FNPRM”) adopted in this docket on June 10,

¹ Public Notice, *National Exchange Carrier Association (NECA) Submits the Payment Formula and Fund Size Estimate For Interstate Telecommunications Relay Services (TRS) Fund For July 2005 Through June 2006*, CC Docket No. 98-67, DA 05-1175, p. 1 (Rel. Apr. 28, 2005) (“*Public Notice*”).

² *Id.*

2004.³ Specifically, despite having received comments in unanimous opposition to this question in response to the *FNPRM*,⁴ the Commission again asks whether it should adopt separate compensation rates for Internet Protocol Relay (“IP Relay”) and traditional Telecommunications Relay Service (“traditional TRS”) for the 2005-2006 fund year.⁵

MCI is a leading IP Relay and traditional TRS provider and innovator, and has a significant stake in NECA’s and the Commission’s rate determinations. In accordance with MCI’s arguments herein, the Commission should maintain the same compensation rate for IP Relay and traditional TRS because the costs of processing a relay call – whether it be through IP Relay or traditional TRS – are generally the same. Also, the Commission should adopt Hamilton Relay’s MARS Plan, because the MARS Plan would bring TRS interstate reimbursement rates in line with intrastate rates by basing rates on competition, rather than rate-of-return regulation.

³ In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 90-571, CC Docket No. 98-67, and CG Docket No. 03-123, *Report and Order, Order on Reconsideration, and Further Notice of Proposed Rulemaking*, 19 FCC Rcd. 12475 (2004) (“*FNPRM*”); *Public Notice* at 1.

⁴ Comments of Sprint Corporation at 7 (filed Oct. 18, 2004); Comments of Hamilton Relay, Inc. at 8-10 (filed Oct. 18, 2004); Comments of Hands On Video Relay Services, Inc. at 26-27 (filed Oct. 15, 2004).

⁵ *Public Notice* at 1.

II. DISCUSSION

A. The Commission Should Maintain The Same Compensation Rate For IP Relay And Traditional TRS

In the *Public Notice*, the Commission asks whether it should adopt separate compensation rates for IP Relay and traditional TRS for the 2005-2006 fund year.⁶ The Commission had previously posed this question in the *FNPRM* adopted in this docket on June 10, 2004,⁷ and the parties that commented on this issue unanimously agreed that the Commission should not adopt separate compensation rates.⁸ Those comments were filed in October 2004, and the reasoning contained therein certainly remains valid now, less than seven months later. MCI agrees with those commenters and contends that the Commission should maintain the same compensation rate for IP Relay and traditional TRS.

In the *FNPRM*, the Commission stated that it “understands” that “the cost of providing IP Relay may be less than the cost of providing traditional TRS; if that is true, providers of IP Relay may be overcompensated, and providers of traditional TRS may be under compensated.”⁹ However, the Commission did not explain what that “understanding” was based upon, and industry commenters who provide relay services disputed it, asserting that the cost of providing IP Relay is *not* less than the cost of providing traditional TRS. For example, Sprint Corporation stated, “It is Sprint’s

⁶ *Id.*

⁷ *FNPRM* at 12564-65.

⁸ Comments of Sprint Corporation at 7 (filed Oct. 18, 2004); Comments of Hamilton Relay, Inc. at 8-10 (filed Oct. 18, 2004); Comments of Hands On Video Relay Services, Inc. at 26-27 (filed Oct. 15, 2004).

⁹ *FNPRM* at 12564-65.

experience that there are no significant cost differences in the provision of Internet Relay and traditional TRS.”¹⁰ Hamilton Relay and Hands On Video Relay Services explained that while certain cost aspects of providing IP Relay may be lower, others are higher, resulting in an essentially net-zero offset.¹¹ Accordingly, as summed up by Hamilton Relay, there are “relatively minor, if any, differences in costs between traditional TRS and Internet Relay services.”¹²

MCI’s experience is similar to that expressed in the October 2004 comments of Sprint, Hamilton Relay, and Hands On Video Relay. Based on this experience, MCI does not believe it is materially less costly to provide IP Relay than traditional TRS. Relay providers may experience differences in overhead or other factors specific to that provider, but these costs must be considered discretionary and not contributing factors to be considered with the generalized cost of providing relay service. The costs of processing a relay call – whether it be through IP Relay or traditional TRS – are generally the same. Thus, the FCC should maintain the same compensation rate for IP Relay and traditional TRS.

One circumstance under which the cost of an IP Relay call might be appreciably less than the cost of a traditional TRS call would be if a provider of traditional TRS operates inefficiently. That, however, would be the problem of the individual provider. Because separate rates would lower compensation for IP Relay providers in order to increase compensation for traditional TRS providers, instituting separate rates to prop up

¹⁰ Comments of Sprint Corporation at 7 (filed Oct. 18, 2004).

¹¹ Comments of Hamilton Relay, Inc. at 9 (filed Oct. 18, 2004); Comments of Hands On Video Relay Services, Inc. at 26-27 (filed Oct. 15, 2004).

¹² Comments of Hamilton Relay, Inc. at 9 (filed Oct. 18, 2004).

inefficient traditional TRS providers would unjustifiably disadvantage efficient providers. It would not benefit the market as a whole and would be contrary to the public interest to impose separate rates that function as cost supports for inefficient providers. Certainly, one of the Commission's goals should be to encourage efficiency. Therefore, again, the FCC should not adopt separate compensation rates for IP Relay and traditional TRS.

B. The Commission Should Adopt Hamilton Relay's MARS Plan

Hamilton Relay has proposed, and the Commission is considering, an alternative rate structure known as the Multistate Average Rate Structure Plan ("MARS Plan") for the interstate fund.¹³ According to Hamilton Relay, the plan is "grounded in competition" and would reduce the compensation rate for both IP Relay and traditional TRS.¹⁴ It would thus be more beneficial than the current interstate rate-of-return regulatory structure for users of relay services. MCI supports the MARS Plan and urges the Commission to adopt it.

A significant benefit of the MARS Plan is that it would bring TRS interstate reimbursement rates in line with intrastate rates. Currently, the interstate rate is often higher than the intrastate rate. As demonstrated by the analysis conducted by Hamilton Relay on the MARS Plan, many state contracts are awarded at a per minute

¹³ See In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 98-67, Hamilton Relay's Petition for Reconsideration (filed Oct. 1, 2004).

¹⁴ In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 90-571, CC Docket No. 98-67, and CG Docket No. 03-123, Comments of Hamilton Relay, Inc. at 9-10 (filed Oct. 18, 2004).

reimbursement rate that is lower than the NECA Interstate TRS reimbursement rate.¹⁵

This is at least in part due to the fact that contracts to provide state-specific relay services are competitively bid, therefore resulting in reimbursement rates more representative of the actual relay costs than interstate rates, which are reached through rate-of-return regulation.

There is no reason that interstate TRS reimbursement rates should not also be based on competition, rather than rate-of-return regulation. Given the operational design of relay services, it is logical that 711 calls and interstate calls require the same expenditure of resources and incur the same expense as any calls processed via the state-based service at an intrastate rate. Because the MARS Plan recognizes that similarity and bases both interstate and intrastate rates upon competition, it is superior to the current interstate rate-of-return regulatory structure and should be adopted.

¹⁵ In the Matter of Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 98-67, Hamilton Relay's Petition for Reconsideration at 9-11 (filed Oct. 1, 2004).

III. CONCLUSION

WHEREFORE, THE PREMISES CONSIDERED, MCI respectfully requests that the Commission act in the public interest in accordance with the proposals set forth herein.

Respectfully submitted,

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May 13, 2005

CERTIFICATE OF SERVICE

I, Michelle D. Lopez, hereby certify that on this 13th day of May, 2005, copies of the foregoing were served by electronic mail, unless otherwise noted, on the following:

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